

**RECEIVED**  
IN THE UNITED STATES COURT OF APPEALS  
2006 NOV 29 AM 11:55  
FOR THE ELEVENTH CIRCUIT  
DEBRA P. HACKETT, CLK  
U.S. DISTRICT COURT  
MIDDLE DISTRICT ALA  
No. 06-14416-I

**FILED**  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT  
NOV. 28 2006

THOMAS K. KAHN  
CLERK

CALVIN MAYS, JR.,

Plaintiff-Appellant,

versus

OLA B. JOHNSON,  
DERRICK CUNNINGHAM,

Defendants-Appellees.

Appeal from the United States District Court for the  
Middle District of Alabama

Before **TJOFLAT, ANDERSON and BARKETT, Circuit Judges.**

BY THE COURT:

Appellant has filed a motion for reconsideration of this Court's order dated October 13, 2006.

Upon reconsideration, appellant's motion for leave to proceed is DENIED and the appeal is DISMISSED because it is frivolous. See 28 U.S.C. § 1915(e)(2)(B); Heck v. Humphrey, 512 U.S. 477, 486-87, 114 S.Ct. 2364, 2372, 129 L.Ed.2d 383 (1994); Dukes v. Smitherman, 32 F.3d 535, 537 (11th Cir. 1994); Ala. Code § 6-2-38(1).

*Affidavit - Denied*  
*Court, U.S. Court of Appeals*  
*Eleventh Circuit*  
*KOT*  
*Deputy Clerk*  
*Atlanta, Georgia*